

CANVASSING



KANSAS

AN UPDATE ON ELECTION NEWS IN KANSAS

Redistricting Completed by Legislature

It went down to the last day of the 2002 legislative session, but Kansas now has new districts for its four seats in the U.S. House of Representatives, its 125 seats in the Kansas House of Representatives, its 40 seats in the Kansas Senate, and its ten seats on the State Board of Education.

The last of the four redistricting plans to be passed by the Legislature was the congressional plan. As of this writing it has not been signed by the Governor or published in the *Kansas Register*, but upon completion of those two requirements it will be in effect, barring legal challenges.

Once that happens, election officers are free to begin preparations for the primary election scheduled for August 6, 2002.

A summary of required preparations for the election was provided in an earlier issue of this newsletter (See *Canvassing Kansas*, March 2002, p. 6), including reassignment of voters and VTDs on

the voter file, publications, and ballot preparation.

Two changes in the administration of elections this year have already occurred as a result of redistricting: candidate petition requirements and filing deadlines.

First, petition requirements are reduced this year because redistricting meant the districts would be unknown until partway through the candidate filing season. For that reason, the law already had reduced the petition requirements for candidates in the primary election to 1% of the registered voters affiliated with the party in the election district; in normal election years the requirement is 2%.

However, another provision in the law says that if redistricting is not completed before May 11, the petition requirements are further reduced to 1,000 for congressional candidates, 300 for State Board of Education, 75 for State Senate, and 25 for State Representative. Because at least one of the redistricting plans was final-

ized after May 11, the new, lower petition requirements are in effect for the remainder of the filing season. (See K.S.A. 25-205(g).)

Second, instead of the usual candidate filing deadline at noon on June 10, this year we have two filing deadlines because of the lateness of redistricting.

June 10 will still be the filing deadline for offices unaffected by redistricting: statewide offices, elected judicial offices, and county, township and precinct offices. The deadline is moved two weeks later to noon on June 24 for offices subject to redistricting: U.S. House of Representatives, Kansas House of Representatives, and Kansas State Board of Education. (Although the Kansas Senate districts were redrawn, the Senate is not up for election until 2004.)

Please see **Redistricting**, page 7

Threshold Increases for S.S. Deductions

The Social Security Administration has announced an increase in the threshold for Social Security (FICA) withholding from election board workers' annual pay. The increase, effective for the 2002 elections, was announced October 25, 2001 in a regulation published in the *Federal Register* and communicated to state election offices through the Federal Election Commission.

The rise in the threshold is due to a cost of living adjustment. With the new formula, each election board worker's annual earnings up to \$1,200 are exempt from Social Security withholding.

Various exemptions have been enacted in previous years, beginning in January 1995 when federal legislation was enacted to remove blanket federal requirements for full Social Security (and Medicare) deductions from election workers' pay. In some states the deductions remained in place if the state's agreement with the Social Security Administration required it. Kansas was not among those states.

Exemptions applying to election board workers' wages have been summarized in previous issues of this newsletter. See *Canvassing Kansas*, June 1998, page 6.

CANVASSING KANSAS

IN THIS ISSUE

- 2 AG Opinion on Redistricting Pencils in Ballot Forms
- 3 A Note from the Secretary
- 4 2002 Elections Summary
- 6 KCCEOAA Annual Conference Spanish Voter Registration
- 7 CVR Reporting goes Electronic Election Standards Adopted
- 8 Felony Notice by E-mail Sentencing Commission Provides Conviction Notices New Mitchell County Clerk

AG Opinions on Redistricting and Deceased Voters

Attorney General Carla Stovall has released two legal opinions early in 2002 that are of some interest to election officers. One deals with county commission redistricting and the other with voters who die after casting their ballots.

Attorney General Opinion 2002-12 was issued February 19, 2002. The gist of the opinion is that when county commission districts are redrawn, they must be as compact and equal in population as possible, but there is no legal requirement that they be contiguous. Many counties are in the process of reviewing their districts based on the new federal census data from the 2000 decennial census.

There is no prohibition on counties redistricting their commission districts at this time. It is important to remember commission districts must follow existing precinct lines and comprise whole precincts.

At present there is a freeze prohibiting the county election officer from altering precincts except for certain statutory reasons. The freeze ends December 1, 2002, after the November general election, and county commission redistricting occurring after that date may alter precinct geography.

Attorney General Opinion 2002-15 was issued March 14, 2002 in response to a request from Secretary of State Ron Thornburgh.

Thornburgh requested the opinion because of a number of instances in recent elections where voters died after casting

their ballots and Kansas law offered no guidance to county election officers or canvassers as to whether the votes were valid.

In summary, the opinion makes three conclusions:

(1) Count the ballot if the voter properly voted at the polling place on election day and died before the county canvass.

(2) Count an advance ballot if the voter died after casting the ballot but before the county canvass.

(3) Do not count an advance ballot if it was provisional and the voter died before the ballots were counted on election day. Any such provisional advance ballot should remain unopened and uncounted.

In general, the rule established by this opinion appears to be that if the ballot is identifiable and retrievable, don't count the votes on it. A ballot in an envelope with the voter's name on the outside, such as a provisional ballot, is identifiable and retrievable.

A ballot that is commingled with other ballots in the ballot box (or in the memory of an electronic voting machine) is not identifiable or retrievable, nor is a ballot that was in an envelope but which has been opened, separated from its envelope and processed.

The provisions of this opinion were incorporated into the Election Standards.

These opinions are available free online at www.ink.org/public/ksag/.

Pencils in Ballot Envelopes Often Not Allowed

The amount of official mail issued by election officers necessitates a good working relationship with the U.S. Postal Service, particularly local postmasters. This is especially important during crucial times such as an election season when advance ballots are mailed or during a special mail ballot election.

Occasionally a county election officer will receive word from a postmaster that ballots are undeliverable because they contain pencils. In some areas postal of-

ficials will not allow pencils to be sent with ballots because they can damage mail handling equipment. The question has arisen again recently, so we did some checking to determine what the postal rules are.

There is a postal regulation prohibiting pencils from being enclosed in letter-size or business envelopes. They may be sent in flat or padded envelopes. Pencils in letter or business envelopes cause jams

Please see **Pencils**, page 8

CANVASSING KANSAS

Published by the office of

**Secretary of State
Ron Thornburgh**

Memorial Hall
120 SW 10th Ave.
Topeka, KS 66612-1594
(785) 296-4564

Editor
Amber M. Cunningham

Layout and Design
Amber M. Cunningham

Copy Editor
Jesse Borjon

Contributing Writers
Brad Bryant
Bryan Caskey
Amber Cunningham

If you have any suggestions or comments about this or future issues, please call (785) 296-4580.

Copyright 2002
Kansas Secretary of State

This publication may be duplicated for informational purposes only. No written permission is required with the exception of articles or information attributed to a source other than the Office of the Kansas Secretary of State.



RON THORNBURGH

Kansas Secretary of State

Dear Friends:

This is an exciting time of change for election officials across the nation and Kansas in particular. As you know, the 2002 Legislature surpassed last year's record for the longest session in Kansas history. While it has been a tiring session, many good things have come out of it. Several state election bills have set new standards for election official's to follow.

Redistricting went down to the wire causing the candidate filing deadline to be pushed back two weeks. The bill is waiting for the governor's signature. Several important pieces of state legislation have been passed by the Kansas Legislature. Key bills were SOS Election Administration Bill, SOS Felons Voting Rights Bill and the KCCEOA County Canvass Bill.

On the national level federal election reform is making some serious changes. After the 2000 election it was evident some change was necessary. This year all eyes will be on election officials to see if the new process works. It is crucial that we are all working together to understand the new legislation and our roles in that process. The citizens of Kansas are watching the process and we don't want to let them down.

We need you to be reviewing and educating yourselves on the new legislation and the different ways of implementing the new procedures. If you have questions please refer to the Election Standards, which was adopted at the May conference. This book is a huge accomplishment for the office of the Secretary of State and the Kansas County Clerks and Election Officials Association and will be an invaluable resource. Of course, you can always call our office to discuss your ideas.

I look forward to this exciting election cycle, and I have full confidence that we will provide the citizens of Kansas with an efficient and secure voting procedure.

Sincerely

A handwritten signature in dark ink, appearing to read "Ron", written over a large, stylized capital letter "P".

RON THORNBURGH
Secretary of State

2002 Elections

Following is a list of elections-related bills that passed during the 2002 legislative session.

Redistricting Bills

As required by the Kansas Constitution, new districts were drawn for the U.S. House of Representatives, Kansas House of Representatives, Kansas Senate, and Kansas State Board of Education. Redistricting is required every 10 years after the decennial census, so the current districts will be in effect until 2012.

- House Substitute for SB 152—New U.S. House of Representatives Districts
- Substitute for House Bill 2625—New Kansas House of Representatives Districts
- Substitute for Senate Bill 256—New Kansas Senate Districts
- Senate Bill 663—New Kansas State Board of Education Districts (Each district is composed of four state Senate districts.)

Election Bills

These are other bills not dealing specifically with redistricting.

- Senate Bill 502—SOS Election Administration Bill
- This is two SOS bills amended together: SB 468 and SB 502. There are 5 provisions.

1. The bill **grants statutory authority to the county election officer to determine the validity of candidate filings for city and local school board offices.** Before enactment of SB 502, the law granted the Secretary of State authority to determine validity of candidate filings for national and state offices, and it granted the county election officer authority to determine validity of filings for county and township offices. It did not specifically grant this authority for city and school offices.

Any determination of invalidity by the county election officer is subject to objection by the affected candidate pursuant to KSA 25-208a(c) and 25-308.

2. The bill **requires the posting of Voter's Rights and Responsibilities at each polling place** at any official election. The contents of the document will be specified by the Secre-

tary of State. At least one copy must be posted at each polling place; more if the county election officer chooses. If the budget permits, the Secretary of State is developing a plan to supply each county with enough posters for one at each polling place.

After the 2000 presidential election many people across the nation perceived a need for improved voter education about the election process to reduce errors in marking ballots. Pending federal election reform legislation will require states to take steps to improve voters' knowledge of voting procedures. This provision in SB 502 will comply with federal requirements and is a step toward improved education of voters.

3. The bill **clarifies the circumstances under which a voter's registration may be canceled as a result of a confirmation mailing.** The NVRA and state law require the county election officer to mail a confirmation notice to a voter after receiving indirect evidence of an address change. "Indirect" means from a source other than the voter, such as from NCOA or a returned piece of election mail.

If the confirmation notice is sent because of an apparent address change *out of the county*, the voter's registration may ultimately be canceled if the voter fails to respond to the confirmation notice and does not vote in any election between the date of the notice and the second succeeding national/state general election. SB 502 clarifies that voter registration cancellation may only occur if these conditions are met after a confirmation notice is mailed because the voter apparently moved *out of the county*.

Confirmation notices mailed due to an apparent *in-county* move never result in cancellation. That would violate the provisions of the NVRA. The amendment made by SB 502 to existing law removes the possibility that state law could be misconstrued to allow unauthorized cancellations.

This should not change current procedures used by county election officers in Kansas. All previous guidelines issued by the Secretary of State and training sessions conducted on the NVRA have instructed county election officers properly. This is a technical revision to the law to prevent improper interpretation.

Note: The amendatory language is might not be immediately obvious. The only change to the law is the insertion of a (4) after the (e) in Subsection (d)(2) of KSA 25-2316c.

4. The bill **clarifies the process for replacing absent county canvassers in counties with more than three county commissioners.** The original statute was written when counties all had three county commissioners, and it established a procedure for appointing persons to fill vacancies on the board of canvassers when one or more commissioners were absent. Now

Legislation Summary

that some counties have more than three commissioners, the language needed to be amended to allow for the replacement of more than two canvassers. This is a follow-up to SB 125 in 2001, when the language was amended but the word “two” was inadvertently left in the statute, thereby limiting the number of vacancies on the canvassing board that could be filled.

Note: The Legislature also amended this section of the bill to slightly alter the role of the county election officer in choosing replacement canvassers.

The original language of the statute said that in case of one or more vacancies on the canvassing board, “...the remaining member or members of the board and the county election officer shall jointly select electors to serve in their place.” The words “and the county election officer” and “jointly” were deleted, and the words “in consultation with the county election officer” were inserted. The statute now reads, “...the remaining member or members of the board in consultation with the county election officer shall select electors to serve in their place.”

This amendment occurred because there was a perception among some legislators that the former statutory language authorized the county election officer, who is not a member of the board of county commissioners, to play a substantive role in an official action taken by the county commissioners—that of appointing temporary canvassers.

5. The bill reduces **the statutory qualifications of petition circulators** to comply with the U.S. Supreme Court decision in *Buckley vs. American Constitutional Law Foundation*. It is a follow-up to SB 127 in 2001, where petition circulators’ qualifications were reduced likewise for many types of petitions. This year’s provisions in SB 502 should have been included in the 2001 bill but were inadvertently omitted. They cover petition circulators for gubernatorial candidate petitions and sponsors (circulators) of petitions to recall local officers.

The Supreme Court decision in *Buckley* allows the state to require petition circulators to possess the qualifications of qualified electors/registered voters and to live in the state, but does not allow the state to require actual registration or residency in the county or specific election district in order to circulate a petition. The laws specifying petition circulators’ qualifications are now in compliance with the Court’s decision.

House Bill 2761—SOS Felons Voting Rights Bill

This bill **clarifies when convicted felons lose their voting rights and when their rights are restored**. The three relevant statutes dealing with this issue were in partial contradiction of each other.

The state’s policy on felons’ voting rights is now: A person convicted of a federal or state felony loses the right to register to vote, vote, hold public office or serve on a jury upon conviction of the felony, and regains those rights when the terms of the sentence are completed.

This means that upon final discharge the person may re-register and vote unless disqualified for a separate reason. Special sentences such as probation or commitment to a conservation camp instead of to prison still result in the loss of rights. Rights are not restored to parolees until the parole is lifted.

Note: This policy is consistent with the Kansas Constitution in Article 5, Section 2. It was written into KSA 21-4615 in 1996 as part of the NVRA bill, but it was later learned that KSA 21-4603 and 21-4603d contained contradictory language. This legislation resolves the inconsistencies in the laws.

House Bill 2996—KCCEO County Canvass Bill

This bill was proposed by the elections committee of the Kansas County Clerks and Election Officials Association. It **allows the county election officer to move the county canvass from Friday after any election to the following Monday**. If the election officer moves the canvass, a notice must be published one time in a newspaper of general circulation. If the canvass is moved to Monday, the deadline to request a recount is automatically moved to 5:00 Tuesday (instead of Monday), and the deadline to complete the recount is moved to 5:00 the following Monday (instead of Friday).

Democracy Fund Legislation

The Secretary of State requested approval of a new Democracy Fund for anticipated federal funding and for state matching funds in future years. Part of the accumulated funds will be spent on election reform at the state level and part disbursed to counties for their reform expenses. The Democracy Fund contains no money yet; it is a vehicle for managing the funds if they become available through the federal election reform legislation.

Constitutional Amendments

There were no concurrent resolutions passed in 2001 or 2002 creating statewide elections on constitutional amendments in 2002.

KCCEOA Annual Spring Conference

Members of the Kansas County Clerks and Election Officials Association gathered in Hutchinson on May 8, 9 and 10 for their annual spring conference.

General Sessions on Wednesday, May 8 included a presentation by motivational speaker Phil Coleman on successful attitudes at work, a presentation on municipal budgeting and accounting, updates from the Kansas Division of Property Valuation and Wildlife and Parks, and a legislative update from Randy Allen of the Kansas Association of Counties.

Thursday's session opened with an update on election-year ethics laws by Carol Williams, executive director of the Kansas Governmental Ethics Commission. The rest of the day was devoted to a discussion of various election-related topics led by Secretary of State Ron Thornburgh and members of his staff.

The morning session of the Secretary of State's presentation began with opening remarks by Ron Thornburgh. Bryan Caskey, administrative assistant in the elections division, then discussed plans for the 2002 elections.

Caskey updated KCCEOA members on the status of the Legislature's redistricting of congressional, Kansas House of Representatives, Kansas Senate, and Kansas State Board of Education districts.

Caskey discussed the effect redistricting will have on the administration of this year's elections, particularly the procedures county election officers will use in adjusting their election precinct geogra-

phy to account for the changes caused by redistricting. He concluded with a review of the plans for election night tabulation on primary and general election night.

Brad Bryant, election director, discussed election-related legislation at the state level. Some of the bills had already passed, while two bills were still pending at the time of the conference. (See related article elsewhere in this newsletter.) An implementation guide for the new laws was distributed to members in attendance and later mailed to those who were unable to attend the conference.

Thornburgh then provided an overview of the status of federal election reform legislation, detailing the major points in the House and Senate bills and explaining his expectations for action by the conference committee.

The afternoon session was devoted to a full discussion of the proposed Kansas Election Standards. The standards were developed during the past year according to a plan designed by Secretary of State Thornburgh. He appointed a Task Force to assist members of his staff in developing the standards. A draft document was distributed to KCCEOA members at the annual KAC convention in November, 2001.

Comments, suggestions and additions were collected during the ensuing months, and a final revision of the standards was printed for distribution at the KCCEOA convention. Following nearly two hours of discussion of the contents of the stan-

dards, KCCEOA president Dorothy Stites requested a motion and second to formally adopt the standards. The motion passed. (See related article elsewhere in this newsletter.)

The Thursday evening banquet featured the conference theme: State Fair Blue Ribbon Performances. Attendees dressed casually in state fair attire, enjoying pre-banquet games on the "midway" in the hotel. The banquet featured a buffet of barbecued beef and grilled chicken. After-dinner entertainment was provided by the Partners of the Prairie, a troupe of cowboy poets and singers.

The closing general session on Friday morning featured a humorous motivational speech by Juli Burney, from Lincoln, Nebraska. Burney had been featured in December, 2001 at the Midwest Election Officials Conference sponsored by the Secretaries of State of Kansas, Iowa, Nebraska and Missouri. Her popularity at the MEOC conference led to the invitation to address the KCCEOA convention.

Secretary Thornburgh expresses his appreciation to the KCCEOA and its president, Dorothy Stites, for the amount of time they devoted to election issues at this year's conference. Having nearly a full day on the agenda was a big help in getting the word out about the important issues facing election officers this year: election reform, redistricting and adoption of the Election Standards.

Spanish Voter Registration Card Available

Kansas Secretary of State Ron Thornburgh and Tina DeLaRosa, executive director of the Kansas Advisory Committee on Hispanic Affairs, recently announced that the state voter registration application form is now available in Spanish.

The translation is a cooperative effort between the two agencies. The form is available on the Secretary of State's web site at www.kssos.org and may be printed, filled out and mailed in to the proper county election office. Election office

addresses are provided on the back of the form.

Thornburgh said, "I am pleased to announce the release of the Kansas voter registration card in Spanish. This is an acknowledgement of the growing Hispanic community in Kansas. By removing the language barrier, I hope to encourage more Spanish-speaking Kansans to become involved in the political process."

Interested individuals or groups may access the form on the Internet or reproduce it as needed from a copy available

from either the Secretary of State's office or the office of the Advisory Committee on Hispanic Affairs. Thornburgh's office also distributed the form to each of the county election offices.

KACHA director DeLaRosa said, "We were happy to provide the translation service for Secretary Thornburgh. Development of the Spanish form is a natural for our organization's commitment to providing needed services to the Hispanic community."

CVR Reporting Continues to go Electronic

All state and county election officers in Kansas are well aware of the amount of time and effort that goes into building and maintaining the central voter registration (CVR) file.

Every three months the entire statewide file is completely rebuilt in the Secretary of State's office, using the 105 individual databases submitted by the county election officers.

Every reporting period brings its own set of challenges: incomplete data, format problems, and hardware or software upgrades that cause transmission problems.

The good news is that our state does have a centralized voter database that is the basis for voting in Kansas and that is useful for candidates, parties and other political entities to use in their campaigns.

Some states have more automated, integrated systems, but they have spent millions of dollars developing them. Other states are behind Kansas, not having built a central database at all. At least not yet.

Imminent federal election reform legislation will probably require states to establish automated CVR systems, and

there is a real chance the federal government will fund these enhancements. An automated system would do away with the quarterly transmission of data, ease most of the data format problems, and greatly reduce the amount of maintenance work done at both the county and state ends of the process. Automating the CVR file has long been a goal of Secretary of State Ron Thornburgh, one that will hopefully become a reality in the foreseeable future.

A cooperative effort between the SOS office and the various county offices during the past few years has moved our state one step closer to the goal of complete automation.

In the early years of the Kansas CVR file, 1994 to 1998, most counties submitted their quarterly data reports on 9" computer tape, tape cartridge, or floppy disk. This has gradually changed as the SOS office has encouraged electronic transmission, either by file transfer protocol (FTP) or email.

The effort to go electronic has produced results. In building the April 1, 2002 quarterly CVR file, 51 counties sent data via email, 50 via FTP, 3 on diskette, and one on tape cartridge.

This represents tremendous progress with little or no expenditure of government funds; it was done with effort, cooperation, and some frustration, but it has been successful. Electronic transmission of data, whether email or FTP, saves transmission time, avoids some potential software-related format problems, and eliminates tapes and disks from the system.

The plan is to continue to increase electronic transmission of data and to use the impetus and possible funding from federal election reform legislation to move to a fully automated system that will make the quarterly reporting system a thing of the past.

Redistricting

From page 1

Planning time will be short, and the Secretary of State's office will be relying more heavily on email and postings on the Internet web site rather than regular mail to speed up communication.

Election Standards Adopted by KCCEOA...

The Kansas County Clerks and Election Officials Association formally adopted the Kansas Election Standards at its annual convention in Hutchinson on May 9, 2002. (See related article elsewhere in this newsletter.) By all accounts, this is the first time statewide election standards have been promulgated in Kansas, and the first time the KCCEOA, as a professional association, has adopted a single set of standards.

The election standards project began in June, 2001, when Secretary of State Ron Thornburgh appointed a nine-member task force of KCCEOA members to assist his staff in writing and editing the standards. The task force met five times from June to October, and a draft of the standards was distributed to all county

election officers at the Kansas Association of Counties convention in November, 2001 in Wichita.

Comments and suggestions were collected from November to April, 2002, and final revisions were made. Printed copies of the standards were distributed at the KCCEOA convention in May. Following a two-hour discussion of the contents of the standards, KCCEOA president Dorothy Stites of Stafford County requested and received a motion to formally adopt the standards.

Secretary Thornburgh commented, "I am extremely pleased that the KCCEOA as a professional association has adopted the election standards. Their action will move our state a long way toward the consistency and uniformity of procedures that

are required by the U.S. Supreme Court in *Bush v. Gore* and which most states were lacking, as evidenced by our experience in the 2000 presidential election. I applaud the action of the KCCEOA and thank the members of the task force that worked so diligently to develop the standards."

The standards will eventually be posted on the Secretary of State's web site at www.kssos.org/counties. Annual updates are planned for July each year. When a section is revised due to new state or federal laws being passed or the issuance of new Attorney General opinions or court rulings, it will be posted on the web site and county election officers will be notified.

Federal Felony Notices Arrive by Email

Computer technology continues to change the way government operates. The U.S. Department of Justice has initiated a program to notify the SOS office of felony convictions via email instead of U.S. mail.

The National Voter Registration Act requires the U.S. Attorney's office in each of the districts overseen by the Department of Justice to notify the chief state election officer of federal felony convictions involving residents of the state.

In Kansas, the chief state election officer is the Secretary of State. Since 1995 when the NVRA went into effect, our office has received the notices from various U.S. Attorney offices and forwarded them to the appropriate county election officer for cancellation of the felons' voter registration according to Kansas law.

The new plan does not change anything about the notices except the method of transmission. Instead of paper conviction notices, our office will receive electronic mail, and the county election officer will receive the email forwarded by us.

Information received from DOJ indicates that the notices will be readable if the user has Adobe Acrobat loaded on their computer.

Most election officers probably have Adobe Acrobat already installed, but if not, it is a free download. There is a link to the download site on the Secretary of State's web page. Go to www.kssos.org and click on Elections, then click on the Adobe download.

New Mitchell County Clerk

Chris Treaster has recently been appointed Mitchell county clerk. Chris replaces longtime clerk Joleen Walker, who retired.

Chris had been working in the clerk's office since July of 2000. Prior to that, Chris worked as a special educator for elementary school children. Chris has been married for 21 years and has two children, a daughter who just graduated from high school, and a 13 year old son.

She received notice of her appointment at the Conference. Welcome aboard Chris!

Sentencing Commission to Provide Notice of State Felony Convictions

The Kansas Sentencing Commission has agreed in principle to provide the Secretary of State with the names of persons convicted of *state* felonies. The information will then be forwarded to county election officers for cancellation of voter registration. No details have been worked out as of this writing.

The discussion came about during legislative consideration of a bill proposed by the Secretary of State. The bill, House Bill 2761, removed inconsistencies in three existing state laws and clarified that a person convicted of a felony is ineligible to register or vote, serve on a jury, or hold public office from the time of conviction until the person is discharged or unconditionally released from the sentence. This applies to any felony conviction—federal or state.

The question arose: If election officers are to prevent a convicted felon from registering or voting, how are they to know who the felons are if there is no reporting system? When the Legislature decided to explore the possibility of creating a reporting system, several options were considered. The Department of Corrections has a list of persons incarcerated for felonies, but their list is incomplete because not all felons are committed to the custody of the DOC—some receive alternative sentences such as probation or conservation camp. The Kansas Bureau of Investigation maintains a list to which each sheriff has access, but the KBI testified that their list was incomplete because district courts do not always report all felony convictions, and they sometimes do not report them on time. The Sentencing Commission also maintains a list, and the executive director said they would be willing to provide the information to the Secretary of State at an interval and format to be determined later.

Because of the agreement between the Sentencing Commission and the Secretary of State, no provision was written into the law to require reporting; it was left to the two agencies to accomplish administratively.

The NVRA already requires the U.S. Department of Justice to report *federal* felony convictions to the Secretary of State. (See related article elsewhere in this newsletter.) Once the system for reporting of state-level convictions is in place, county election officers will have notice of felonies at both the federal and state levels.

Pencils

From page 2

and other damage to processing equipment, which results in mutilation of the envelope and other envelopes before and after the envelope containing the pencil.

Some local post offices do not routinely enforce this regulation because they do not have the type of processing equipment in question.

Years ago pencils were enclosed with absentee ballots by most county election officers. Although we have not conducted a survey, our discussions with various counties indicate that the practice is not as widespread as it once was. The laws governing absentee voting (now advance voting) and mail ballot elections do not require pencils to be sent, although the instructions prescribed by the Secretary of State to be sent with mailed optical scan advance voting ballots (Form AV10)

say, "The ballot must be voted with the pencil provided." This has been in the prescribed instructions for years in recognition of the longstanding and widespread practice of providing pencils.

In summary, election officers are not required to provide pencils, and advance voting by mail on an optical scan ballot is the only type of voting for which the issue is important. Optical scan equipment has become increasingly tolerant of different types of writing utensils over the past fifteen years, which makes it less important that voters use the pencil provided. If a local postal official does not allow pencils to be sent, it is probably best not to include them. It is more important that the voter receive the ballot without delay. If it becomes apparent that most county election officers are not providing pencils, the Secretary of State will amend Form AV10 by removing the reference to enclosed pencils.